IN THE HIGH COURT OF BOMBAY AT GOA

APPEAL FROM ORDER NO. 66 OF 2005

SHRIKANT NAIK AND ANR., ...Appellants

Versus

LETICIA AUREA GOMES PEREIRA E MENEZES AND 6 ORS., ...Respondents

Shri N. K. Sawaikar, Advocate for the appellants.

Coram:- A. P. LAVANDE, J.

Date:- 17th March, 2006

P.C.

Heard Mr. Sawaikar, the learned Counsel for the appellants. The appellants are the defendants in Special Civil Suit No.38/05/B filed by the respondents in the Court of the Civil Judge, Senior Division, Panaji. In the said suit, the respondents filed an application for temporary injunction bearing Civil Misc. Application No.150/05/B against the appellants herein. The case of the respondents is that they are the owners in possession of the suit roperty bearing Survey No.6/3 situated at Diwar and the appellants, who claim to be the tenants of the suit property, have no right, title or interst over the suit property. The trial Court, after appreciating the material produced before it by both sides, came to a prima facie conclusion that the appellants have not been able to prove even prima facie their claim of tenancy and in the light of the fact that the name of Olinda Menezes through whom the respondents claimed right to the suit property, appeared in the survey records of the suit property and the names of the appellants did not figure in the survey records, the trial Court held that, prima facie, the respondents were entitled to the injunction against the appellants.

Vide separate order passed today in Appeal from Order No.59/05, I have already dismissed the appeal filed by the present appellants against refusal of injuncton against the respondents herein.

I have perused the records. The findings given by the trial Court while granting the injunction against the appellants are based on the evidence on record. The finding of the trial Court that the appellants have not led any evidence, even prima facie, in support of claim of tenancy, cannot be faulted. There is absolutely no perversity in the findings recorded by the trial Court and, therefore, no interference is called for in this appeal.

In the result, therefore, I do not find any merit in this appeal and the same is summarily rejected.

A. P. LAVANDE, J.

ssm.